

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY DIVISION**

**FRANK TREADWAY, et al.,  
Plaintiffs,**

**Civil Action No. 5:16-cv-12149  
Honorable Irene C. Berger**

**v.**

**BLUESTONE COAL CORP.,  
BLUESTONE INDUSTRIES, INC., and  
MECHEL BLUESTONE, INC.  
Defendants.**

**DEFENDANTS' OBJECTIONS TO  
PROPOSED JUDGMENT ORDER**

Defendants Bluestone Coal Corp., Bluestone Industries, Inc., and Mechel Bluestone, Inc., by counsel, object to entry of the Judgment Order proposed by Plaintiffs in the above-styled civil action because the Plaintiffs' proposed Judgment Order sets forth vexatious penalties significantly in excess of the statutory judgment rate set forth in 28 U.S.C. § 1961. The penalties proposed by Plaintiffs are inappropriate for three reasons. First, the parties only agreed to pre-judgment penalties and did not agree to the imposition of post-judgment penalties. Second, the Plaintiffs are adequately protected by the imposition of post-judgment interest at the statutory rate. Third, to allow the imposition of penalties following the entry of judgment would be unduly burdensome to the Defendants and would result in a financial windfall for the Plaintiffs and their counsel, remedies which are particularly inappropriate in a class action lawsuit. Based on the foregoing, the Defendants request that the redlined revisions set forth in the document attached hereto as Exhibit A be incorporated into the Judgment Order to be entered by the Court.

**BLUESTONE COAL CORP., et al.,**

**By Counsel**

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**JUDGMENT ORDER**

Pending before the Court are Plaintiffs' Motion to Enforce Settlement (ECF Doc. # 43) and Notice for Entry of Judgment (ECF Doc. # 44). For the reasons set forth herein, the Court ENTERS judgment against the Defendants in the amount of **\$602,101.42** as of March 29, 2019, ~~together with interest thereon at the statutory judgment rate in addition to such further daily penalties as may accrue after this date, in lieu of the legal rate of interest, at the rate of \$1,000.00 per day that each payment to the common fund, class representatives, or class administrator is late, and incorporating by reference the March 5, 2019 Order of this Court,~~ consistent with the agreement of the Parties, as follows:

1. On March 5, 2019, the Court entered a final order (ECF Doc. # 42) ("March 5 Order") setting forth and approving the terms of the settlement in this case.
2. The Defendants have made partial payments~~failed to make payment~~ according to the schedule agreed upon by the Parties and adopted in the March 5 Order and set forth in the Plaintiffs' Notice for Entry of Judgment (ECF Doc. # 44).

3. On March 28, 2019, the Court heard testimony from the Defendants expressing their agreement to the judgment offered and proposed by the Plaintiffs in this matter in the Notice for Entry of Judgment (ECF Doc. # 44).

4. As of March 29, 2019, the Defendants had failed to pay \$331,433.75 that was then due under the March 5 Order.

5. Pursuant to the terms of the final settlement, the Defendants are also due to make another payment of \$260,667.67 to the common fund, and a payment of \$10,000.00 to the class representatives, on or before June 23, 2019, by cashier's checks to Mountain State Justice as class administrator, for conveyance to the class members in accordance with the Mediated Settlement Agreement (ECF Doc. #40-1) and the March 5 Order approving settlement (ECF Doc. # 42).

~~6. Daily penalties of \$1,000.00 per day continued to be assessed as to each additional day that each payment is late to the common fund, class representatives, or class administrator under the approved settlement.~~

~~7.6.~~ As of March 29, 2019, the total sum outstanding under the settlement was \$331,433.75 due immediately and \$270,667.67 due on or before June 23, 2019, ~~in addition to any further daily penalties assessed based on late payments.~~

**WHEREFORE**, for the foregoing reasons, the Court **ENTERS** judgment for all sums due under the March 5 Order and by order of this Court, **totaling \$602,101.42** as of March 29, 2019, ~~together with interest thereon at the statutory judgment rate in addition to such further daily penalties as may accrue thereafter at the rate of \$1,000.00 per day that each payment continues to be late.~~ Further, this Court shall retain jurisdiction over this case in order to ensure that the

Defendants fully comply with this Judgment and do not interfere with the Plaintiffs as to its execution.

ENTERED \_\_\_\_\_

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Honorable Irene C. Berger  
U.S. District Judge

Prepared by:

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